

IN THE UNITED STATES DISTRICT COURT RECEIVED
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FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION 2012 DEC 11 A 9:46

Korell Battle a/k/a Korell Robert Floyd)
Battle,)
Plaintiff,)
v.)
SCDC, Robert Babb, and George Amonitti,)
individually and in their official capacities,)
Defendants.)

No. 2:13-cv-1594-RMG

ORDER

SCDC, Robert Babb, and George Amonitti,)
individually and in their official capacities,)
Defendants.)

This matter is before the Court on the Report and Recommendation (“R&R”) of the Magistrate Judge recommending that this Court grant Plaintiff’s motion to remand. (Dkt. No. 49). For the reasons set forth below, the Court agrees with and wholly adopts the R&R as the order of the Court.

Background

This action was initially filed in state court but was later removed because Defendants argued Plaintiff asserted a claim under 42 U.S.C. § 1983. Plaintiff then filed a motion to remand. (Dkt. No. 14). Defendants then filed a response in opposition to the motion. (Dkt. No. 21). Plaintiff then filed an amended complaint. (Dkt. No. 48). The Magistrate Judge then issued the present R&R. (Dkt. No. 49). No timely objections were filed.

Legal Standard

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a de novo determination of those portions of the R&R to which specific objection is made.

Additionally, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). This Court may also “receive further evidence or recommit the matter to the magistrate judge with instructions.” *Id.*

Discussion

After review of the record and the R&R, the Court finds the Magistrate Judge applied sound legal principles to the facts of this case and therefore agrees with and wholly adopts the R&R as the order of the Court. As stated in the R&R, the Court agrees the amended complaint contains only state causes of action and therefore fails to invoke the jurisdiction of this Court.

Conclusion

For the reasons set forth above, the Court agrees with and adopts the R&R as the order of the Court. (Dkt. No. 49). Accordingly, Plaintiff’s motion to remand (Dkt. No. 14) is GRANTED and this case is hereby remanded to the Greenville County Court of Common Pleas.

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Court Judge

December 11, 2013
Charleston, South Carolina